

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

NOV 30 2009

JOHN F. CORCORAN, CLERK
BY: *J. Platt*
DEPUTY CLERK

TIMOTHY WAYNE BAILEY,

Petitioner,

v.

GENE M. JOHNSON, DIRECTOR, DOC,

Respondent.

Case No. 7:09CV00386

FINAL ORDER

By: Glen E. Conrad
United States District Judge

In accordance with the accompanying memorandum opinion, it is hereby

ORDERED

that the motion to dismiss is **GRANTED**, the petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, is **DISMISSED**; petitioner's motion for leave to proceed in forma pauperis in filing this action is **DISMISSED** as moot, because he paid the \$5.00 filing fee; and this action is stricken from the active docket of the court. Based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right, a certificate of appealability is **DENIED**.

ENTER: This 30th day of November, 2009.

Glen E. Conrad

United States District Judge